



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

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CITY ATTORNEY SAYS PAYMENT OF SPECIAL “PRESIDENTIAL BENEFIT” TO RETIRED UNION BOSS IS A VIOLATION OF CITY’S MUNICIPAL CODE

San Diego, CA: Reacting to an announcement that Municipal Employees Association (MEA) President Judie Italiano would seek from the San Diego City Employees’ Retirement System (SDCERS) an enhanced retirement known as the “Presidential Benefit”, City Attorney Michael Aguirre contended that it would not be allowed under the municipal code. Italiano announced her retirement today as president of the MEA.

“The effort by Ms. Italiano to have her retirement benefit calculated on her combined union and city salaries is expressly forbidden by the municipal code,” said Aguirre. “While this side deal for public employee union presidents was negotiated in 2002, it was never codified into law and would be illegal.”

BACKGROUND:

Ms. Italiano has applied for her special retirement benefits under the provisions contained in Resolution 297212, which was adopted by the San Diego City Council on October 21, 2002. This Resolution was part of the “*quid pro quo*” arrangement which is at the heart of the cases currently being prosecuted by the District Attorney and the United States Attorney. In fact, what has become to be known as “the Presidential benefit” was extended to only union presidents in exchange for the SDCERS Board voting to accept insufficient funding of the retirement system by the City of San Diego in 2002 under Managers Proposal 2. Therefore, Ms. Italiano’s application is void and should be rejected by SDCERS in its entirety.

Resolution 297212 purports to confirm that Ms. Italiano was being given a special retirement benefit in a sum equal to her retirement multiplier of 2.5% times her combined salaries as the “President” of the MEA *and* her salary as an employee of the City of San Diego. This resolution is void and of no effect as set forth in Item 1 above.

Additionally, no ordinance was ever passed validating Ms. Italiano’s special “Presidential benefit.” Indeed, on November 18, 2002, Ordinance No. 19121 was adopted confirming that “all union presidents” were simply entitled to the retirement benefit contained in the controlling MOU. [Because Ordinance 19121 was adopted *after* Resolution 297212 and purports to apply to both current and former Union Presidents, it supercedes Resolution 297212.]

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According to the MOU between the City and MEA adopted by that ordinance, Ms. Italiano is only entitled to receive a retirement benefit calculated using a base salary “equal to the [City] salary the President is receiving at the time he or she takes office.” Therefore, even if Ms. Italiano is entitled to a pension benefit, that benefit should only be calculated using the City salary in effect at the time she took office.

The SDCERS Board has a fiduciary obligation to determine the validity of Ms. Italiano’s applied for retirement benefit. To pay this benefit without first determining its validity would be a breach of SDCERS’ fiduciary obligations.

City Attorney Aguirre will make a presentation at the SDCERS Board meeting on Friday, May 19 when the Pension Board takes up the matter.

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